

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARK PHILLIP SCHMIDT,
 Plaintiff,

vs.

COMMISSIONER OF SOCIAL SECURITY,
 Defendant.

Case No. 2:15-cv-02001-GMN-CWH
REPORT & RECOMMENDATION

On October 27, 2015, the court entered an order granting Plaintiff Mark Phillip Schmidt's application to proceed in forma pauperis. (Order (ECF No. 2).) Additionally, the court screened Plaintiff's complaint under 28 U.S.C. § 1915(e)(2). (*Id.* at 1-3.) The court noted that Plaintiff's complaint consisted only of a caption page naming Plaintiff and the Commissioner of Social Security and was signed by Plaintiff. (*Id.* at 2.) The complaint did not include any factual allegations written by the Plaintiff. (*Id.*) Given that various documents from the Social Security Administration were attached to the complaint, the court understood Plaintiff to be attempting to submit a complaint for judicial review of a decision by the Commissioner of Social Security. (*Id.* at 2; Compl. (ECF No. 3) at 3-25.) Without written factual allegations stating the reasons why Plaintiff challenged the Social Security Administration's decision denying benefits, the court could not evaluate whether Plaintiff's complaint states a claim against the Commissioner of Social Security. (Order at 2.) The court therefore dismissed the complaint without prejudice for Plaintiff to file an amended complaint. (*Id.* at 2-3.)

Plaintiff's deadline for filing an amended complaint was thirty days from the date of the court's order dated October 27, 2015. (*Id.* at 3.) The court expressly warned Plaintiff that failure to comply with the order may result in a recommendation that his case be dismissed. (*Id.*) More than thirty days have passed, and Plaintiff has not filed an amended complaint. The court therefore will recommend that Plaintiff's case be dismissed.

RECOMMENDATION

IT IS THEREFORE RECOMMENDED that Plaintiff Mark Phillip Schmidt's case be
DISMISSED.

NOTICE

This Report and Recommendation is submitted to the United States District Judge assigned to this case under 28 U.S.C. § 636(b)(1). A party who objects to this Report and Recommendation may file a written objection supported by points and authorities within fourteen days of being served with this Report and Recommendation. Local Rule IB 3-2(a). Failure to file a timely objection may waive the right to appeal the District Court's Order. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991).

DATED: December 7, 2015



C.W. Hoffman, Jr.
United States Magistrate Judge